

REMARKS

Currently examined claims 1, 23, 25, 29 and 31 have been amended. Withdrawn claims 19, 24, 27, 30 and 32 claims have also been amended so as to be in proper order in the event the withdrawn claims are rejoined with the examined claims. The amendments made here to emphasize the disordered nature of the pores do not create new matter. Both amendments “having a disordered plurality of pores,” and “substantially electrically insulating ~~host material~~ ~~having pre-formed pores~~, wherein at least some of the disordered plurality of pores of the host material have been filled with a substantially electrically conducting material” are supported by, for example, paragraph [0033] line 1, Fig. 1B, Fig. 2 and/or Fig. 4 of the present specification.

The description and claims of this invention teach at least some disordered pores, providing a unique fingerprint that is highly damage tolerant. (*see* paragraph [0035] lines 2-6 of the description.) This characteristic is one that distinguishes the presently claimed invention over the cited prior art.

Rejection of Claims Under 35 USC § 102(b)

The examiner has rejected claims 1-14, 16-18, 23, 25, 26, 29 and 31 as anticipated by Suzuki et al., US Patent No. 5,972,438 (“Suzuki”). The examiner states that Suzuki teaches the use of a groove, which can be a minute opening. The examiner further states that according to the Merriam-Webster dictionary definition of “pore” that was provided by applicant, a pore can be a minute opening, thereby allowing for a groove to be a pore.

Applicant respectfully disagrees. It is applicant’s contention that a pore, as defined in Merriam-Webster, must be minute: “a minute opening especially in an animal or plant; *especially*: one by which matter passes through a membrane.” Suzuki only shows (Figures 16 and 17A) and describes (first example at column 18, line 29) cards that are 54 x 84 mm, having a groove that extends the length of the card ($x_3 - x_4$). Such a large dimension, 84 mm, can hardly be called minute. Returning to the definition of “pore” above, a pore is “*especially*: one by which matter passes through a membrane.” A pore that is almost 8 ½ cm long in a membrane would require a very large membrane, way beyond the size of the cards taught by Suzuki.

The examiner refers to paragraphs [0033] and [0034] in the present application as allowing for tuning of the pores, and states that this increases the size of what can be referred to

as “pores”. However, the pore sizes described in paragraphs [0033] and [0034] range from 10 nm up to 500 nanometers. This size is of a different order than the 84 millimeters.

Further, the claims as presented relate to “pores” in the plural, and Suzuki teaches only one groove, or pore, per card. For example, Figure 13A shows one magnetic recording track T_2 , in which one groove ($x_1 - x_2$) is present. Likewise, Figure 16 shows a magnetic recording stripe member **82** with one groove that extends the length of the card ($x_3 - x_4'$). At column 11, lines 35-36, Suzuki teaches “the magnetic stripe member **82** embedded in a groove **83** on one side.” At column 14, lines 41, 42, 49 and 64, for example, the singular “a groove” or “the groove” (*emphasis added*) is used.

Suzuki clearly teaches a card with one, long groove in it, which is quite different from the plurality of pores taught in the present claims. Therefore, Suzuki is missing a fundamental element of the present invention and cannot anticipate the claims.

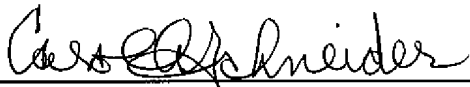
Rejection of Claims Under 35 USC § 103(a)

The examiner has rejected claim 15 as obvious over Suzuki. The examiner admits that Suzuki does not specifically describe the pore diameter, but argues that a diameter range of 100 – 500 nm would have been an obvious choice for a person of skill in the art, based on the 1000 nm thickness of the coding region. Based on this thickness, the examiner claims that the perturbations must be much smaller than 1000 nm to fit in the coding layer. The examiner has erred here; Suzuki teaches a coding region thickness of 6000 nm at column 26, line 3. However, this is irrelevant, because Suzuki does not meet the other requirements of the present claims (*see* arguments presented above under § 102(b)).

CONCLUSION

For the reasons described above, applicant believes that the claims being examined are in proper form for allowance. If the examiner wishes to discuss the matter, he is invited to contact the undersigned at (650) 251-7702, or at caschneider@mintz.com.

Respectfully submitted,

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